REMARKS

Favorable reconsideration is respectfully requested in view of the foregoing amendments and following remarks.

Claims 36 and 40 have been amended to delete the phrase "PCR products". The amendment is made without prejudice. Accordingly, the rejection of these claims as containing new matter is deemed to be overcome.

There have been two changes to claim 17: (a) the oligonucleotides in the cells now contain "predetermined sequences", and (b) the feature of previously-allowed claim 22 has been incorporated therein.

Claims 17, 23, 33, 35-37, 39 and 40 are rejected under 35 USC 102 as anticipated by Stavrianopoulos et al., U.S. 4,994,373. This ground of rejection is deemed to be overcome in view of the foregoing amendments.

Amendment (a) introduces the same claim limitation as found in various granted independent claims in U.S. 5,700,637 and U.S. 6,054,270. This amendment reflects that the claimed products are useful in methods where a probe with known sequence is immobilised in the array and the nucleic to be analysed is applied to the array ("probe down"). In contrast, the cited Stavrianopoulos et al. patent U.S. 4,994,373 describes products in the opposite orientation i.e. where a nucleic acid to be analysed is immobilised on a support and a probe with known sequence is applied to the immobilised sequence ("target down").

Amendment (b) introduces the feature of claim 22 that is patentably distinct from the issued claims in U.S. 6,054,270. None of the issued claims teach or suggest an array with this type of attachment. Thus a Petition to withdraw the terminal disclaimer over U.S. 6,054,270 has been filed concurrently herewith.

Moreover, claim 22 was not encompassed by the rejection. Rejected claims 17, 23, 33, 35 and 36 are all ultimately dependent upon claim 17. According this ground of rejection is deemed to be overcome with respect to these claims.

The Applicant respectfully traverses with the rejection of claims 37 and 39. These claims refer back to product claim 26, which is not rejected over Stavrianopoulos

et al. and which the Examiner has kindly indicated to be allowed. Accordingly the rejection of these claims appears to be in error.

None of the products disclosed by Stavrianopoulos et al. have an immobilised oligonucleotide with a predetermined sequence. On the contrary, the immobilised sequences in the Stavrianopoulos et al. method are the analyte rather than the probe. Thus amendment (a) overcomes the objections raised by the Examiner.
Moreover, where Stavrianopoulos et al. mention a "parallel" analysis system, the analyte sequences are immobilised in different reaction containers e.g. different wells of a microtitre plate. The Applicant does not agree that different wells on a plate would be "an impermeable surface" of a support, rather, they are separate surfaces. For example, a sample applied to one well would not be able to hybridise to nucleic acids in another well, because the immobilised nucleic acids are on separate surfaces.

In view of the foregoing amendments, it is respectfully submitted that each ground of rejection has been overcome.

Favorable reconsideration and allowance is thus respectfully solicited.

Respectfully submitted,

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